



20 JUL 2007

9
COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Emma Durrell
Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063

In re Application of	:	
Jacques Kusmierek	:	DECISION ON
Application No.: 10/533,051	:	
PCT No.: PCT/US03/33440	:	
Int. Filing Date: 22 October 2003	:	
Priority Date: 22 October 2002	:	PETITION UNDER
Attorney Docket No.: DASI.006.00US	:	
For: Treatment of Cognitive...	:	
D1 Receptor Agonist	:	37 CFR 1.181

This decision is in response to the "communication faxed 14 March 2007, which is being treated as a petition under 37 CFR 1.181, requesting acceptance of a copy of the Declaration, Power of Attorney purportedly filed in the USPTO on 28 June 2006." Applicant has submitted, *inter alia*, a copy of the 28 June 2006 PTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: Executed Declaration.

BACKGROUND

On 14 December 2005, this Office in a decision granted the Petition to Revive the aforementioned application filed on 26 April 2005.

On 13 March 2007, the revocation filed on 07 April 2006 was granted.

On 29 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date and that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68" must be submitted within two months from the date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e))

On 14 March 2007, applicant submitted this petition indicating that the executed Declaration was filed on 28 June 2006.

DISCUSSION

Applicant's present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the PTO as indicated in the stamped postcard:

- (1) Executed Declaration
- (2) Petition for Extension of Time (4 months)
- (3) Check in the amount of \$860.00

The postcard lists the above items and bears a USPTO date of stamp as 28 June 2006.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 28 June 2006.

Accordingly, the date of receipt for the Declaration is 28 June 2006.

DECISION

The petition under 37 CFR 1.181 is GRANTED.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date is 16 September 2005.



Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459